

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

GEORGE MOORE,

Plaintiff,

vs.

Civil Action 2:11-CV-132
Judge Watson
Magistrate Judge King

WARDEN, PICKAWAY CORRECTIONAL
INSTITUTION, et al.,

Defendants.

REPORT AND RECOMMENDATION

On April 19, 2011, this Court directed the United States Marshal Service to effect service of process and gave each defendant forty-five (45) days after service to respond to the *Amended Complaint*. *Initial Screen of the Complaint*, Doc. No. 7. Service of process on the defendant warden was effected on May 4, 2011. *Summons Returned Executed*, Doc. No. 13.¹An answer was filed on June 20, 2011. *Answer*, Doc. No. 15. This matter is now before the Court on plaintiff's motion for default judgment against defendants. Doc. No. 16.

Defendants' *Answer* was filed within forty-five days, as calculated in accordance with Fed. R. Civ. P. 6, after service of process. It therefore appears that defendants are not in default.

It is therefore **RECOMMENDED** that plaintiff's motion for default judgment be denied.

If any party seeks review by the District Judge of this *Report*

¹Service on defendant Ernie Moore was returned unexecuted. *Id.*

and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); F.R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. F.R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*.

See Thomas v. Arn, 474 U.S. 140 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

s/Norah McCann King
Norah M'Cann King
United States Magistrate Judge

June 27, 2011